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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/710,760	11/10/2000	John C. Royer	5563.210-US	5635

25907 7590 11/05/2004
NOVOZYMES BIOTECH, INC.
1445 DREW AVE
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EXAMINER
MARVICH, MARIA

ART UNIT	PAPER NUMBER
1636	

DATE MAILED: 11/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No. 09/710,760	Applicant(s) ROYER ET AL.	
	Examiner Maria B Marvich, PhD	Art Unit 1636	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 25 October 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

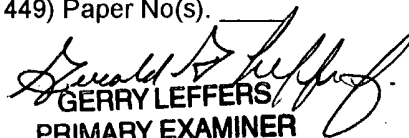
Claim(s) allowed: 90-93

Claim(s) objected to: _____

Claim(s) rejected: 94

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☒ Other: See Continuation Sheet


GERRY LEFFERS
PRIMARY EXAMINER

009/710,760

Continuation of 3. Applicant's reply has overcome the following rejection(s): Claims 103 and 104 have been canceled thus overcoming the rejections under 35 USC 112, second paragraph. Claims 97-100 have been cancelled thus overcoming the rejection under 35 USC, first paragraph for lack of enablement and written description.

Continuation of 10. Other: Applicants have amended claim 94 to recite that trichodene synthase is obtained from *Fusarium venenatum* strain NRRL 30747. However, the requirements of CFR 1.801-1.809 have not been properly met and therefore, the rejection of claim 94 under 35 USC 112, first paragraph, for lack of written description regarding a deposit requirement under 37 CFR 1.801-1.809 has not been overcome. Specifically, the provided statement under 37 CFR 1.808 is directed to NRRL B-30029 which according to the instant specification has been deposited May 1998. NRRL B-30029 is described in the specification as *E. coli* DH5a pTri5. Furthermore, under the Budapest Treaty, the deposit must be referred to in the body of the specification and be identified by accession number, date of deposit, name and address of the depository and the complete taxonomic description. The specification has not been amended to add the description or accession number or date of deposit of the NRRL 30747.